

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte SCOTT A. MOSKOWITZ and MARC COOPerman

MAILED

MAY 23 2007

U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Appeal No. 2007-2273  
Application No. 08/999,766

NOTIFICATION OF NON-COMPLIANCE REGARDING  
ORAL HEARING REQUEST

Appellants filed a Request for Oral Hearing which was inserted on page 1 of appellants' brief filed July 10, 2003.

37 CFR § 1.194(b) (now 37 CFR § 41.47(b)) which was in effect at the time of the filing of the brief provides that a request for an oral hearing must be filed in a separate paper. Since appellant's request for oral hearing was not filed in a separate paper as required by 37 CFR § 1.194(b), a request for an oral hearing cannot be granted at this time. However, the \$140 fee for the oral hearing which was submitted and applied with the brief, is refundable under 37 CFR § 1.26.

If appellants desire the \$140 fee to be refunded, a request for refund should be filed as soon as possible.

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If appellants still desire an oral hearing, a petition under 37 CFR § 1.183 must be filed within two weeks of the mail date of this notice. Such a petition must include:

- (1) a request to suspend the separate paper requirement of 37 CFR § 41.47(b),
- (2) a showing of facts to establish that an extraordinary situation exists and that justice requires the separate paper requirement of 37 CFR § 41.47(b) be suspended or waived, and

(3)<sup>1</sup> be accompanied by the petition fee set forth in 37 CFR § 1.17. This two-week time period for filing a petition under 37 CFR § 1.183 is not extendable under 37 CFR § 1.136(a) (1)(iv).

The failure to timely file a petition under 37 CFR § 1.183 will result in the appeal being decided without an oral hearing (i.e., On Brief).

BOARD OF PATENT APPEALS  
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By:

  
PATRICK J. NOLAN  
Deputy Chief Appeals Administrator  
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<sup>1</sup> This requirement is unnecessary as the fee has already been charged to appellants' account.

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